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– and –

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Attorneys for Plaintiff and the Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

BILAL ELSAKKA, Individually and on Behalf)
of All Others Similarly Situated,

Plaintiff,

vs.

PHARMAVITE LLC, et al.,

Defendants.

No. 4:12-cv-03645-PJH

CLASS ACTION

STIPULATION OF VOLUNTARY
DISMISSAL WITHOUT PREJUDICE

1 Plaintiff Bilal Elsakka ("plaintiff") and defendants Pharmavite LLC ("Pharmavite"), Otsuka
2 America, Inc. ("OAI"), and Otsuka Pharmaceutical Co., Ltd. ("OPC") (collectively, "defendants")
3 hereby stipulate to the dismissal of this action without prejudice as to all defendants pursuant to Rule
4 41(a)(1)(A) of the Federal Rules of Civil Procedure as follows:

5 WHEREAS, plaintiff, through his counsel, filed a Class Action Complaint ("Complaint")
6 against defendants in the above-entitled matter on July 12, 2012 (Dkt. No. 1);

7 WHEREAS, none of the defendants has answered the Complaint or moved for summary
8 judgment;

9 WHEREAS, a class has not been certified in this action;

10 WHEREAS, defendants have agreed that the dismissal of this action and subsequent re-filing
11 in this or another court does not operate as an amendment to plaintiff's initial pleading pursuant to
12 Rule 15(a) of the Federal Rules of Civil Procedure or California Code of Civil Procedure §471;

13 WHEREAS, plaintiff acknowledges and agrees that, notwithstanding this stipulation, nothing
14 herein shall be construed or argued by any party to constitute consent to the Court's exercise of
15 personal jurisdiction over OPC or a waiver of any jurisdictional defenses OPC may have; and

16 WHEREAS, in consideration of the covenants and agreements contained in this Stipulation,
17 plaintiff and defendants hereby stipulate and agree as follows:

18 Pursuant to Fed. R. Civ. P. 41(a)(1)(A), plaintiff hereby dismisses this action, without
19 prejudice, with each side to bear its own attorneys' fees and costs incurred in connection with this
20 action;

21 IT IS SO STIPULATED.

22 DATED: September 4, 2012

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*Admitted *pro hac vice*

Attorneys for Plaintiff and the Class

DATED: September 4, 2012

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s/ Juliet A. Markowitz

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Attorneys for Defendants Pharmavite LLC,
Otsuka America, Inc. and
Otsuka Pharmaceutical Co., Ltd.

1 I, Stuart A. Davidson, am the ECF User whose identification and password are being used to
2 file the Stipulation of Voluntary Dismissal Without Prejudice. In compliance with Civil L.R. 5-
3 1(i)(3), I hereby attest that Juliet A. Markowitz has concurred in this filing.
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6 s/ Stuart A. Davidson
STUART A. DAVIDSON
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CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2012, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 4, 2012.

s/ Stuart A. Davidson
STUART A. DAVIDSON

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Mailing Information for a Case 4:12-cv-03645-PJH

Electronic Mail Notice List

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)